

Senate Study Bill 1312

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON FRAISE)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to motor fuel by establishing standards for the
2 sale of biodiesel fuel, making penalties applicable, and
3 providing for an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2118XC 82
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1 1 Section 1. Section 159A.6, subsection 2, unnumbered
1 2 paragraph 2, Code 2007, is amended to read as follows:
1 3 The committee shall develop standards for decals required
1 4 pursuant to section 214A.16, which shall be designed to
1 5 promote the advantages of using ~~renewable fuels~~ ethanol
1 6 blended fuel. The standards may be incorporated within a
1 7 model decal adopted by the committee and approved by the
1 8 office.
1 9 Sec. 2. Section 214A.1, Code 2007, is amended by adding
1 10 the following new subsection:
1 11 NEW SUBSECTION. 16A. "Nonbiodiesel blended fuel" means
1 12 diesel fuel other than biodiesel blended fuel if it meets the
1 13 standards provided in section 214A.2.
1 14 Sec. 3. Section 214A.2, subsection 4, paragraph b,
1 15 subparagraph (2), Code 2007, is amended to read as follows:
1 16 (2) At least ~~one two~~ percent of biodiesel blended fuel by
1 17 volume must be biodiesel.
1 18 Sec. 4. NEW SECTION. 214A.2B STANDARDS FOR DIESEL FUEL
1 19 ADVERTISED, SOLD, OR DISPENSED IN THIS STATE == BIODIESEL
1 20 BLENDED REQUIREMENT AND EXCEPTIONS.
1 21 1. Except as otherwise provided in this section, a person
1 22 shall not advertise, sell, or dispense diesel fuel in this
1 23 state for use in this state, unless the diesel fuel is
1 24 biodiesel blended fuel.
1 25 2. A person may advertise, sell, or dispense nonbiodiesel
1 26 blended fuel in this state if any of the following apply:
1 27 a. The nonbiodiesel blended fuel is exempt from the levy
1 28 of the excise tax as a special fuel required to be indelibly
1 29 dyed and used only for an exempt purpose as provided in
1 30 section 452A.3.
1 31 b. The nonbiodiesel blended fuel is used to operate a
1 32 diesel motor that powers a locomotive.
1 33 c. The department of revenue issues an order suspending
1 34 the application of the requirement provided in subsection 1 on
1 35 a statewide basis, based on the department's finding that
2 1 there is a shortage of biodiesel blended fuel. The order
2 2 shall take effect upon filing the order with the
2 3 administrative rules coordinator for publication in the Iowa
2 4 administrative bulletin as provided in chapter 17A. The
2 5 department's order shall expire as provided in the order, but
2 6 not later than three months after the date that the order is
2 7 published in the Iowa administrative bulletin. However, the
2 8 department may issue consecutive orders.
2 9 Sec. 5. Section 214A.3, Code 2007, is amended by adding
2 10 the following new subsection:
2 11 NEW SUBSECTION. 3. A person who advertises the sale of
2 12 diesel fuel that is not biodiesel blended fuel shall refer to
2 13 the diesel fuel as nonbiodiesel blended fuel.
2 14 Sec. 6. Section 214A.16, Code 2007, is amended to read as
2 15 follows:
2 16 214A.16 NOTICE OF BLENDED FUEL == DECAL.
2 17 1. a. If motor fuel containing ~~a renewable fuel~~ ethanol

~~2 18 blended gasoline is sold from a motor fuel pump, the motor~~
~~2 19 fuel pump shall have affixed a decal identifying the name of~~
~~2 20 the renewable fuel it as ethanol blended gasoline. The decal~~
~~2 21 may be different based on the type of renewable fuel used.~~
~~2 22 The design and location of the decal shall be prescribed by~~
~~2 23 rules adopted by the department.~~

2 24 b. A decal identifying a renewable fuel ethanol blended
2 25 gasoline shall be consistent with standards adopted pursuant
2 26 to section 159A.6.

2 27 2. The design and location of a decal shall be prescribed
2 28 by rules adopted by the department. The department may

2 29 approve an application to place a decal in a special location
2 30 on a motor fuel pump or container or use a decal with special
2 31 lettering or colors, if the decal appears clear and
2 32 conspicuous to the consumer. The application shall be made in
2 33 writing pursuant to procedures adopted by the department.

2 34 Sec. 7. Section 452A.33, subsection 2, Code 2007, is
2 35 amended by adding the following new paragraph:

3 1 NEW PARAGRAPH. d. An estimate of the availability of
3 2 biodiesel blended fuel for use in this state for the current
3 3 determination period, including for each geographic region of
3 4 the state as specified in section 173.4A.

3 5 Sec. 8. CONTINGENT REPEAL OF CODE SECTIONS.

3 6 1. If the successor Act to Senate Study Bill 1105 or
3 7 another Act is enacted by the Eighty-second General Assembly
3 8 during its 2007 Regular Session that prohibits the
3 9 advertising, selling, or dispensing of gasoline other than
3 10 ethanol blended gasoline, all of the following shall apply:

3 11 a. Section 159A.6, subsection 2, unnumbered paragraph 2,
3 12 Code 2007, is amended by striking the paragraph.

3 13 b. Section 214A.16, Code 2007, is repealed.

3 14 2. This section applies notwithstanding section 4.8.

3 15 Sec. 9. EFFECTIVE DATE. This Act takes effect on the
3 16 earliest of any of the following:

3 17 1. January 1, 2008, if the department of revenue publishes
3 18 a notice in the Iowa administrative bulletin stating that the
3 19 department of revenue has calculated that there is enough
3 20 biodiesel blended fuel for use in this state to satisfy the
3 21 requirements of section 214A.2B, as enacted in this Act, on a
3 22 statewide basis. The department shall make a decision about
3 23 the availability of biodiesel blended fuel in this state and
3 24 publish a notice of its finding in the Iowa administrative
3 25 bulletin prior to October 1, 2007.

3 26 2. July 1, 2008.

3 27 EXPLANATION

3 28 BACKGROUND. During the 2006 Legislative Session, the
3 29 general assembly enacted H.F. 2754 (2006 Iowa Acts, ch. 1142)
3 30 which provided for the regulation and promotion of motor fuel
3 31 and renewable fuels (ethanol blended gasoline and biodiesel
3 32 blended fuel), as administered by the department of
3 33 agriculture and land stewardship and the department of
3 34 revenue.

3 35 MOTOR FUEL STANDARDS. This bill amends Code chapter 214A,
4 1 which provides authority to the department of agriculture and
4 2 land stewardship to regulate the sale of motor fuel.
4 3 Code section 214A.2 provides for different types of motor
4 4 fuel and establishes standards or specifications for biodiesel
4 5 blended fuel, in part based on ASTM international standards.
4 6 Currently, at least 1 percent of biodiesel blended fuel by
4 7 volume must be biodiesel. The bill increases that amount to 2
4 8 percent.

4 9 BIODIESEL BLEND REQUIREMENT. This bill creates a new
4 10 requirement to be administered by the department of
4 11 agriculture and land stewardship requiring that a person
4 12 advertising, selling, or dispensing diesel fuel must use
4 13 biodiesel blended fuel. Diesel fuel which does not meet the
4 14 requirement is termed nonbiodiesel blended fuel.
4 15 Notwithstanding the bill's prohibition, it allows exceptions
4 16 for nonbiodiesel blended fuel which is: (1) exempt from the
4 17 levy of the fuel tax as a special fuel required to be
4 18 indelibly dyed and used only for an exempt purpose as provided
4 19 in Code section 452A.3; (2) used to operate a diesel motor
4 20 that powers a locomotive; or (3) made available pursuant to a
4 21 special order issued by the department of revenue suspending
4 22 the application of the requirement on a statewide basis, based
4 23 on a shortage of the biodiesel blended fuel. House File 2754
4 24 in part required the department of revenue to collect
4 25 information regarding the number of gallons of bio-blended
4 26 fuels including biodiesel blended fuel. The bill provides
4 27 that the department must estimate the availability of
4 28 biodiesel blended fuel for use in this state for the current

4 29 determination period, including for each geographic region of
4 30 the state as specified in Code section 173.4A.

4 31 ADVERTISING. The bill eliminates a requirement that a
4 32 motor fuel pump dispensing biodiesel blended fuel be affixed
4 33 with a decal identifying it as biodiesel blended fuel, as
4 34 provided by rules adopted by the department of agriculture and
4 35 land stewardship in cooperation with the renewable fuels and
5 1 coproducts advisory committee (Code chapter 159A). The bill
5 2 also provides that a decal is not required to be affixed to a
5 3 motor fuel pump dispensing ethanol blended gasoline if
5 4 legislation is enacted by the Eighty-second General Assembly,
5 5 during its 2007 Session, that prohibits the advertising,
5 6 selling, or dispensing of gasoline other than ethanol blended
5 7 gasoline.

5 8 CURRENT APPLICABLE PENALTIES. Code section 214A.11
5 9 provides that a person who violates a provision of Code
5 10 chapter 214A is guilty of a serious misdemeanor, and that each
5 11 day that a continuing violation occurs is considered a
5 12 separate offense. A serious misdemeanor is punishable by
5 13 confinement for no more than one year and a fine of at least
5 14 \$315 but not more than \$1,875. The Code section also provides
5 15 that in lieu of seeking a prosecution, the state may proceed
5 16 against the person by initiating an alternative civil
5 17 enforcement action as a contested case proceeding by the
5 18 department under Code chapter 17A or as a civil judicial
5 19 proceeding by the attorney general upon referral by the
5 20 department. The applicable civil penalty is at least \$100 but
5 21 not more than \$1,000 for each violation. Each day that a
5 22 continuing violation occurs shall be considered a separate
5 23 offense.

5 24 EFFECTIVE DATE. The bill takes effect upon the earliest of
5 25 two possible dates: (1) January 1, 2008, if the department of
5 26 revenue publishes a notice in the Iowa administrative bulletin
5 27 stating that there is enough biodiesel blended fuel for use in
5 28 this state to satisfy the requirements that diesel fuel be
5 29 biodiesel blended fuel; or (2) July 1, 2008.

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